

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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MICHAEL D. VICKER, On Behalf of Himself and All )  
Others Similarly Situated, )  
  )  
  )  
  )  
Plaintiff, )  
  )  
v. )  
  )  
WAVE SYSTEMS CORP., JOHN E. BAGALAY, JR., )  
STEVEN K. SPRAGUE and GERARD T. FEENEY, )  
  )  
  )  
Defendants. )  
  )  
  )  
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CIVIL ACTION  
NO. 04-30040-MAP

**ASSENTED-TO MOTION TO EXTEND TIME TO ANSWER, MOVE OR OTHERWISE  
RESPOND TO PLAINTIFF'S CLASS ACTION COMPLAINT**

Defendants Wave Systems Corporation, John E. Bagalay, Jr., Steven K. Sprague and Gerard T. Feeney hereby move for an Order extending the time to answer, move or otherwise respond to Plaintiff's Class Action Complaint to forty-five days after a Consolidated Amended Class Action Complaint has been filed.

In support of their Motion, Defendants state as follows:

1. To date, there have been multiple actions filed on behalf of a class asserting the same claims as the above-captioned matter arising under the Private Securities Litigation Reform Act ("PSLRA"), 15 U.S.C.A. § 78u-4.

2. The PSLRA, 15 U.S.C.A. § 78u-4, sets forth specific requirements concerning the appointment of lead plaintiff. Specifically, the PSLRA provides that: (a) the plaintiff(s) shall publish notice of the pendency of the class action, the claims and class period "not later than 20 days" after the complaint is filed. § 78u-4(1)(3)(A)(i)(I) (2004); (b) "not later than 60 days after the notice is published, any member of the purported class may move the court to serve as lead plaintiff..." § 78u-4(1)(3)(A)(i)(II); (c) the court shall appoint the "most adequate plaintiff" as the lead plaintiff "not later than 90 days after the date on which a notice is published..." § 78u-4(1)(3)(B)(i); and (d) if a motion to

consolidate multiple class actions is filed, the court shall not appoint a lead plaintiff "until after the decision on the motion to consolidate is rendered." § 78u-4(1)(3)(B)(I); and (d) if a motion to consolidate multiple class actions is filed, the court shall not appoint a lead plaintiff "until after the decision on the motion to consolidate is rendered." § 78u-4(1)(3)(B)(ii).

3. Accordingly, based on the PSLRA requirements for notice, the appointment of lead plaintiff and the consolidation of actions, it would be premature and judicially inefficient for Defendants to respond to Plaintiff's Class Action Complaint at this time.

4. Counsel for Plaintiff has assented to the extension of the deadline provided by the Fed. R. Civ. P. for response to the Class Action Complaint to forty-five days after the Consolidated Amended Class Action Complaint has been filed.

WHEREFORE, Defendants respectfully request that the Court enter an Order extending the time for Defendants to answer, move or otherwise respond to Plaintiff's Class Action Complaint up to and including forty-five days after the Consolidated Amended Class Action Complaint has been filed.

**WAVE SYSTEMS CORPORATION, JOHN E.  
BAGALAY, JR., STEVEN K. SPRAGUE and  
GERARD T. FEENEY,**

By their attorneys,

/s/ Eunice E. Lee

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Dated: March 16, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was electronically served upon the attorney of record for each party on March 16, 2004.

/s/ Eunice E. Lee

Eunice E. Lee

